

SCHENCK, PRICE, SMITH & KING, LLP

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Attorneys for Defendant,

Athas Healthcare, LLC, d/b/a North American Spine

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CARMELO JOHN GIUFFRE

Plaintiff,

v.

NORTH AMERICAN SPINE, LLC;
DAMON J. NOTO, MD; SPINE & JOINT
CENTER; HACKENSACK SURGERY
CENTER, LLC; LIBERTY SPINE & PAIN,
LLC; DOUG JOHNSON, PA; S&D
SURGICAL SYSTEMS, INC.; WILLIAM
L. HIGH, MD, PHD; JOHN S. HOLT,
CNIM, R EDT, R EPT; JOHN DOE, MD 1-
10; JANE DOE, MD 1-10; JOHN DOE, RN
1-10; JANE DOE, RN 1-10; JOHN DOE 1-
10; JANE DOE 1-10; JOHN DOE CORP. 1-
10, fictitious names

Defendants.

Civil Action No.

NOTICE OF REMOVAL

(Removed from:
Superior Court of New Jersey
Law Division: Bergen County
Docket No. L-001521-16)

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Athas Healthcare, LLC, d/b/a North American Spine (Athas) (improperly impleaded as North American Spine, LLC) hereby removes this action from the Superior Court of New Jersey, Law Division: Bergen County (the “State Court”), to the United States District Court for the District of New Jersey, Newark Vicinage. In support of this Notice of Removal, Athas states as follows:

1. Plaintiff commenced this action by filing a Complaint in the State Court on or about February 22, 2016, in the action entitled *Carmelo John Giuffre v. North American Spine, LLC; Damon J. Noto, M.D.; Spine & Joint Center; Hackensack Surgery Center, LLC; Liberty*

Spine & Pain, LLC; Doug Johnson, PA; S&D Surgical Systems, Inc.; William L. High, MD, PhD; John S. Holt, CNIM, R EDT, R EPT; John Doe, MD 1-10; Jane Doe, MD 1-10; John Doe, RN 1-10; Jane Doe, RN 1-10; John Doe 1-10; Jane Doe 1-10; John Doe Corp. 1-10, Docket No.: L-1521-16 (“the State Court Action”). A true copy of plaintiff’s Summons, Complaint, Jury Demand, Designation of Trial Counsel, Civil Case Information Statement and Track Assignment Notice, which constitutes all process, pleadings and orders received by Athas in the State Court Action, is attached to the accompanying Certification of William J. Buckley as Exhibit “A.”

2. Plaintiff brought a personal injury medical malpractice action alleging that he suffers from painful and permanent injuries, and will incur substantial future medical expenses. See Exhibit A.

3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and complete diversity of citizenship exists between all parties. Upon information and belief, at the time of the filing of this Notice of Removal, and at the time of the commencement of this action:

- a. Plaintiff Carmelo John Giuffre is an individual residing in the Borough of Staten Island, City of New York, State of New York.
- b. Defendant Athas is a limited liability company organized and existing under the laws of Texas, with a principal place of business in Texas.
- c. Defendant Damon J. Noto, M.D., is a citizen of New Jersey.
- d. Defendant Spine & Joint Center is a professional corporation organized and existing under the laws of New Jersey, with a principal place of business in New Jersey.

- e. Defendant Hackensack Surgery Center, LLC is a limited liability company, organized and existing under the laws of the State of New Jersey with a principal place of business in New Jersey.
 - f. Defendant Liberty Spine & Pain, LLC is a limited liability company, organized and existing under the laws of the State of New Jersey and with a principal place of business in New Jersey.
 - g. Defendant Doug Johnson, PA is a citizen of Texas.
 - h. Defendant S & D Surgical Systems, Inc. is a corporation, organized and existing under the laws of Texas and with a principal place of business in Texas.
 - i. Defendant William L. High, M.D. is a citizen of Texas.
 - j. Defendant Jon S. Holt, CNIM is a citizen of Texas.
4. Athas received service of the State Court Action sometime after the date on the summons of February 25, 2016. Therefore, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446.
5. The State Court from which Athas removes the State Court Action is in this District and Vicinage.
6. Written notice of the filing of this Notice of Removal will be served upon counsel for the plaintiff consistent with 28 U.S.C. § 1446(d).
7. A true copy of this Notice of Removal will be filed promptly with the Clerk of the Superior Court of New Jersey, Law Division, Bergen County, consistent with 28 U.S.C. § 1446(d).
8. This Notice of Removal is filed in accordance with the requirements of 28 U.S.C. § 1446.

9. In filing this Notice of Removal, Athas does not waive any defects in venue or personal jurisdiction, and specifically preserves and incorporates herein all affirmative defenses enumerated in Fed. R. Civ. P. 12.

WHEREFORE, Athas hereby gives notice that the action pending against it in the Superior Court of New Jersey, Law Division, Bergen County, entitled *Carmelo John Giuffre v. North American Spine, LLC; Damon J. Noto, M.D.; Spine & Joint Center; Hackensack Surgery Center, LLC; Liberty Spine & Pain, LLC; Doug Johnson, PA; S&D Surgical Systems, Inc.; William L. High, MD, PhD; John S. Holt, CNIM, R EDT, R EPT; John Doe, MD 1-10; Jane Doe, MD 1-10; John Doe, RN 1-10; Jane Doe, RN 1-10; John Doe 1-10; Jane Doe 1-10; John Doe Corp. 1-10* Docket No. L-1521-16, is removed to the United States District Court for the District of New Jersey, Newark Vicinage. No further proceedings should be had in the State Court.

Respectfully Submitted,

SCHENCK, PRICE, SMITH & KING, LLP

Attorneys for Defendant,

Athas Healthcare, LLC, d/b/a North American Spine
(improperly impleaded as North American Spine,
LLC)

By: s/ William J. Buckley

William J. Buckley (9159)
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Dated: March 24, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this day I caused to be filed electronically with the United States District Court for the District of New Jersey and served by FedEx overnight delivery, a copy of the within Notice of Removal with Exhibits and Civil Cover Sheet pursuant to 28 U.S.C. § 1446, upon:

Attorney for Plaintiffs
E. Drew Britcher, Esq.
Britcher Leone, LLC
175 Rock Road
Glen Rock, NJ 07452

Clerk, Bergen County
Law Division
Bergen County Justice Center
Hackensack, NJ 07601

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Attorneys for Defendant,
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Dated: March 24, 2016